

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 122-2.1 as follows:

6 (725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

7 Sec. 122-2.1. (a) Within 90 days after the filing and
8 docketing of each petition, the court shall examine such
9 petition and enter an order thereon pursuant to this Section.

10 (1) If the petitioner is under sentence of death
11 and is without counsel and alleges that he is without
12 means to procure counsel, he shall state whether or not
13 he wishes counsel to be appointed to represent him. If
14 appointment of counsel is so requested, the court shall
15 appoint counsel if satisfied that the petitioner has no
16 means to procure counsel.

17 (2) If the petitioner is sentenced to imprisonment
18 and the court determines the petition is frivolous or is
19 patently without merit, it shall dismiss the petition in
20 a written order, specifying the findings of fact and
21 conclusions of law it made in reaching its decision.
22 Such order of dismissal is a final judgment and shall be
23 served upon the petitioner by certified mail within 10
24 days of its entry.

25 (b) If the petition is not dismissed pursuant to this
26 Section, the court shall order the petition to be docketed
27 for further consideration in accordance with Sections 122-4
28 through 122-6. If the petitioner is under sentence of death,
29 the court shall order the petition to be docketed for further
30 consideration and hearing within one year of the filing of
31 the petition.

1 (c) In considering a petition pursuant to this Section,
2 the court may examine the court file of the proceeding in
3 which the petitioner was convicted, any action taken by an
4 appellate court in such proceeding and any transcripts of
5 such proceeding.

6 (Source: P.A. 86-655; 87-904.)